

## **REMARKS**

### **Introduction**

The present Amendment is in response to the Office Action mailed June 13, 2006. The Office Action rejected claims 1-2 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,781,349 (*Kimura*). Claims 3-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kimura*. By this paper, new claims 5-6 have been added. Claims 1-6 are therefore pending.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. Reconsideration of the application is respectfully requested in view of the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **Specification**

A new title is provided in the Amendments to the Specification portion of this response.

### **Rejections Under 35 U.S.C. § 102**

As the Examiner is aware, a "claim is anticipated only if each and every element as set forth in the claim is found . . . in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The following discussion illustrates that the art cited by the Examiner fails to anticipate the pending claims.

The Examiner alleges that claim 1 is anticipated by *Kimura*. Applicant respectfully disagrees. The rejection made in the Office Action fails to contemplate each and every element of the pending claims as set forth in the claims.

For example, claim 1 requires "a control section for controlling the charge and discharge of the battery pack". However, the Office Action fails to address this requirement of claim 1. Instead, the Office Action only states that "the controller is housed on a separate unit to prevent contaminant air from coming into contact." See Office Action at page 3. Thus, the Examiner

fails to address the requirement of claim 1 that the control section controls the charge and discharge of the battery pack.

Further, *Kimura* does not in fact teach this limitation of claim 1. *Kimura* states that the "controller 22 controls switching of the rotation direction of the fan 19, and simultaneously controls switching of the selector valve member 18 through an actuator 23 in accordance with temperature detection signals supplied from the individual temperature sensors 20 and 21." *See* col. 4, lines 30-34. This suggests that the controller taught by *Kimura* is not connected to the battery pack, but is connected with temperature sensors, with a fan, and with a selector valve member. *See Id.* As a result, *Kimura* does not teach or suggest a control section for controlling the charge and discharge of the battery pack as required by claim 1. Instead, *Kimura* teaches controlling a fan and an actuator based on a temperature. Controlling a fan and an actuator does not teach or suggest controlling the charge and discharge of the battery pack.

Claim 1 further requires a harness or metallic connecting member that connects the control section to the battery pack. *Kimura* also fails to teach or suggest this requirement of claim 1. As stated above, the controller taught by *Kimura* does not appear to be directly connected with the battery pack as described above, but is connected with temperature sensors. As a result, there is no suggestion of the harness or metallic connecting member required by claim 1 that connects the control section to the battery pack.

For at least these reasons, claim 1 is not anticipated by *Kimura*.

With regard to claim 2, the Examiner has failed to specifically point out any part of *Kimura* that teaches a switch for turning electricity on and off as required by claim 2. For at least this reason and for the reasons discussed above, claim 2 also overcomes the art of record and is in condition for allowance.

### **Rejections Under 35 U.S.C. § 103**

The rejection made under § 103 simply states that the reference is silent on the specific structure of the controller unit, but that it is common knowledge in the art to have placed vent and exhaust ports on the controller to deduce the operating temperature. *See* Office Action at page 3. This rejection fails to establish a *prima facie* case of obviousness for several reasons.

First, several of the limitations required by claim 1 are not taught or suggested by *Kimura* as discussed above.

Second, Figure 1 of *Kimura*, contrary to the Examiner's assertion, fails to disclose a case of the controller. Figure 1 of *Kimura* illustrates a case around the battery but fails to illustrate or suggest a case for the controller. Because *Kimura* fails to disclose a case, *Kimura* cannot teach or suggest a vent hole or an exhaust hole in the case of the controller as required by claim 3.

Although the Examiner has stated that it is common knowledge to have an exhaust port and a vent hole, Applicant requests that the Examiner provide documentary evidence relating that it is common knowledge in the art to have placed vent and exhaust ports on the controller as required by claim 1.

The Office Action also fails to address the requirements of claim 4 by pointing out that portion of *Kimura* that allegedly teaches the requirements of claim 4. Claim 4 requires that the exhaust port be connected to a downstream side passage of the cooling medium passage in the cooling medium feeding device. One example of this connection is shown at reference numeral 26 in the present disclosure. Figure 1, however, does not teach or suggest that an exhaust port is connected to a downstream side passage of the cooling medium passing in the cooling medium feeding device as required by claim 4. In fact, there is no suggestion in Figure 1 or in the specification that the controller of *Kimura* requires cooling.

For at least these reasons, claims 3-4 overcome the art of record and are in condition for allowance.

### **New Claims**

New claims 5 and 6 have been added by this amendment. In addition to the reasons discussed above, claim 5 overcomes the art for additional reasons. By way of example, claim 5 requires a switch for turning electricity on and off to the battery pack. No such switch is taught or suggested by *Kimura*. As discussed above, the controller of *Kimura* not connected to the battery pack and therefore cannot teach this requirement of claim 5. For at least this reason and for the reasons discussed above, claims 5 and 6 are also in condition for allowance.

## **Conclusion**

In view of the foregoing, Applicants believe the claims are in allowable form and allowance is respectfully requested. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 12<sup>th</sup> day of September, 2006.

Respectfully submitted,

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